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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,664	03/21/2008	Birgit M. Pfitzmann	CH920030025US1	4647

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LAW OFFICE OF IDO TUCHMAN (YOR)  
ECM #72212  
PO Box 4668  
New York, NY 10163-4668

EXAMINER
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SHEHNI, GHAZAL B

ART UNIT	PAPER NUMBER
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4171

NOTIFICATION DATE	DELIVERY MODE
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11/21/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pair@tuchmanlaw.com  
idotuchman@gmail.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,664	<b>Applicant(s)</b> PFITZMANN ET AL.	
	<b>Examiner</b> GHAZAL SHEHNI	<b>Art Unit</b> 4171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01/28/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/04/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections – 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 25-28, 33** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 25-28 and 33 are directed to a computer program per se. **(e.g. see applicant's disclosure; "software controller may be implemented by a usage program page 7, lines 22-23).**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10-18, and 20-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergler et al (pub. No. US 2002/0194010A1).

As to Claim **1, 21-22, 25-26, 29-30** Bergler discloses a software license management system/**computer program/ method** in which a license to use a software product is represented by a data token **(license)(page 2 [0020] line 5)** the system/method comprising:

**a software controller/Control Logic/ program code (see terminal server)(page 2 [0020] line 4)** for controlling use of a software product **(see fig2. element 228 also see**

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**software code page 1 [0008] line 4 and program modules include programs, page 4 [0045] lines 4-5 and fig.2 element 230 and “software product” page 1 [0005] lines 3-4)** at a user device and a license management server (**see license sever**)(**page 2 [0020] line 5**) for communicating with the software controller via a data communications network ;

wherein the **software controller/Control Logic/program code** (means) is adapted for (to):

- allowing said use of the software product substantially only during a use period (**expiration date, page 2 [0020] line 11**) associated with a current data token supplied to the software controller by the license management server (**e.g. terminal sever makes a license request to the license server page 2 and 3 [0022] lines 10-11 also see page 2 [0020] “expiration date” lines 11-13**)
- enabling user access to an exchange token, dependent on the current data token (**see client’s expired or “same” permanent license, page 9 [0086] lines 8-9**) supplied by the license management server, whereby the exchange token (**see update “same” license, page 9 [0086] line 14**) can be supplied as a current data token to another said software controller (**see page 9 [0084] lines 8-22, also see [0086] lines 1-16**) and
- supplying one of the current data token (**see “same” permanent license page 9 [0087] line 2**) and the exchange token via the network to the license management server to be exchanged for a new data token (**new license, page 9 [0087] line 5**) to replace the current data token (a) to extend the license for the software product beyond the use period (**see new expiration date, page 9 [0087] lines 5-6**) associated with a current data token supplied by the license management server and (b) if the current data token is an exchange token from another said software controller (**see page 9 [0087] lines 15-23**) ;

and wherein the **license management server/Control Logic/program code** (**see license sever**)(**page 2 [0020] line 5**) is adapted for

- supplying via the network to the software controller a new data token, to replace the current data token and having a new use period associated therewith, in exchange for a current data token, or an exchange token corresponding to the current data token, received from the software controller (**see license renewal process in page 9 and 10 [0088] lines 12-16 also page 10 [0089] lines 14-21 also page 6 [0064] lines 11-21**), and
- detecting if a said token received from the software controller for exchange corresponds to a token already exchanged by the license management server.

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**(each time the license server receives a request, the "same" license module executes to determine if the client has been previously licensed)(see page 6 [0065] lines 4-9)**

As per claim 2, Bergler discloses a system as claimed in claim 1 wherein the exchange token is a copy of the current data token, the license management server being adapted for detecting if the same data token is received twice for exchange. **(see license server determines that the client already has a permanent license, therefore reissues the "same" license to the client)(see page 9 [0083] lines 4-10)**

As per claim 3 Bergler discloses a system as claimed in claim 2 wherein the license management server is adapted for:  
storing a token identifier **(see ticket page 1 [0012] line 3 also see page 6 [0062] lines 10-13)** corresponding to each data token received by the server for exchange; and comparing the token identifier for each received data token with the stored token identifiers to detect if the same data token is received twice for exchange. **(see page 1 [0012] lines 1-12)**

As per claim 4, Bergler discloses a system as claimed in claim 3 wherein the token identifier **(see ticket page 1 [0012] line 3 also see page 6 [0062] lines 10-13)** for a data token comprises that data token.

As per claim 5, Bergler discloses a system as claimed in claim 1 wherein the system is adapted such that the use periods associated with alternate data tokens **(see temporary license, "same licenses and new licenses)(page 7 [0070] lines 1-2, 6)** in a chain of data tokens received by the software controller from the license management server do not overlap **(see for example, a 90 day period, is a reasonable period designed to allow long term management of the license server)(see page 7 [0070] lines 3-14 also page 3 [0022] lines 17-20).**

As per claim 6, Bergler discloses a system as claimed in claim 1 wherein:

an exchange period is associated with each data token; and the system is adapted such that a new data token, to replace a current data token, can be obtained by the software controller only during the exchange period associated with that current data token **(see terminal server request permanent license from the license server during the temporary period to replace the temporary license)(see page 3 [0022] lines 13-24).**

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As per claim 7, Bergler discloses a system as claimed in claim 6 wherein the use period and exchange period associated with a data token overlap **(e.g. a “license update period” is a short predetermined period prior to the expiration date of a license, typically about 7 day period, in which the terminal server will attempt to have the license updated through the license server)(see page 8 [0081] lines 4-8 also see page 8 [0078] lines 14-20).**

As per claim 8, Bergler discloses a system as claimed in claim 1 wherein the software controller is adapted for enabling user access to said exchange token by supplying the exchange token for storage by the user **(e.g. if the client possess a license (i.e., a current license, an expired license, or a temporary license) in its license cache) (see page 7-8 [0075] lines 7-9 also see fig.3 element 338).**

As per claim 10, Bergler discloses a system as claimed in claim 1 wherein the license management server is adapted for supplying a new data token in exchange for a received token only if the received token does not correspond to a token already exchanged **(see the operation by the license server to locate a new license) (page 8 [0079] lines 17-29).**

As per claim 11, Bergler discloses the license management server is adapted for supplying a new data token **(new license)** in exchange for a received token before detecting if the received token corresponds to a token already exchanged **(see page 6 [0065] lines 1-11).**

As to Claims **12, 23-24, 27-28, 31-32** Bergler discloses a software license management system/ computer program/method in which a license to use a software product is represented by a data token **(see new license provided to client)(page 2 [0020] line 5)** the system/method comprising:

a software controller/control logic/ program code **(see terminal server) (page 2 [0020] line 4)** for controlling use of a software product **(see fig2. element 228 also see software code page 1 [0008] line 4)** at a user device and a license management server **(see license sever)(page 2 [0020] line 5)** for communicating with the software controller via a data communications network ;

wherein the software controller/ control logic/ program code is (means) adapted for (to)

- allowing said use of the software product substantially only during a use period associated with a current data token supplied to the software controller by the license

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management server **(e.g. terminal sever makes a license request to the license server page 2 and 3 [0022] lines 10-11 also see page 2 [0020] “expiration date” lines 11-13)**

-receiving an exchange token associated with said license **(e.g. the updated token would be received by the terminal server from the license server)(see page 9 [0086] lines 14-16)**, and

-supplying one of the current data token **(new license)** and the exchange token **(update token)** via the network to the license management server to be exchanged for a new data token to extend the license for the software product beyond the use period associated with a current data token supplied by the license management server and (b) if a said exchange token is received by the software controller in the absence of a current data token **(e.g. if the license server is unable to locate the “same” permanent license, it then issues a new license with a new expiration date. The new expiration date is the extended use period)(see page 9 [0087] lines 2-6)**;

and wherein the license management server/control logic/program code (means) is adapted for (to):

- storing the use period **(see fig.3 element 316 and 318, also page 6 [0064] lines 11-21)** for each data token supplied to the software controller under the license **(see page 6 [0062] lines 10-13)**, and
- supplying via the network to the software controller a new data token in exchange for a current data token, or said exchange token, received from the software controller, the new data token having a new use period which does not overlap the use period of a data token previously-supplied under the license. **(see the operation by the license server to locate a new license)(page 8 [0079] lines 17-29)**

As per claim 13, a system as claimed in claim 12 wherein a said data token comprises a coin **(Examiner holds that token is a coin)**.

As per claim 14, Bergler discloses a system as claimed in claim 12 wherein the use period associated with a data token is indicated in the data token **(see page 8, lines 23-27)**.

As per claim 15, Bergler discloses a system as claimed in claim 12 wherein the software controller is adapted for supplying one of the current data token and the exchange token automatically to the license management server to extend the license for the software product **(e.g. the terminal server automatically tries to update the client’s permanent license through the license server, see page 9 [0082] lines 11-13 also see the terminal server automatically requests an update for the client from the license server, page 9 [0083] lines 1-3)**.

As per claim 16, Bergler discloses a system as claimed in claim 12 wherein:

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an exchange period is associated with each data token; and the system is adapted such that a new data token, to replace a current data token, can be obtained by the software controller only during the exchange period associated with that current data token (**see the third scenario for a permanent license that is within the "license update period"**) (page 9 [0082] lines 1-13).

As per claim 17, Bergler discloses a system as claimed in claim 16 wherein the exchange period associated with a data token is indicated in the data token (**e.g. see update "same" license, page 9 [0083] lines 9-13**).

As per claim 18, Bergler discloses a system as claimed in claim 12 wherein: a said data token represents a license to use a plurality of software products (**see "site" license, page 1 [0007] lines 1-3**); and the software controller is adapted for storing product data, indicative of said plurality of software products, at a back-up storage location, and allowing use of each of the software products substantially only during the use period associated with the current data token supplied by the license management server (**e.g. terminal sever makes a license request to the license server page 2 and 3 [0022] lines 10-11 also see page 2 [0020] "expiration date" lines 11-13**).

As per claim 20, Bergler discloses a system as claimed in claim 18 wherein the product data comprises the software products. (**see program data, fig.2 element 232 also program modules, fig.2 element 230**)

As per claim 33, Bergler also discloses a computer program product stored on a computer usable medium, comprising computer readable program (**see CD-ROM, DVD-ROM, page 4 [0049] lines 9-10**).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



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Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergler et al (pub NO. 2002/0194010 A1) in view of Satkunanathan et al (Pub. No. 2005/0114266).

As per claim 9, Bergler discloses a system as claimed in claim 1 wherein the software controller is adapted for enabling user access to said exchange token (see page 9 [0086] lines 1-16) but Bergler does not disclose a back-up storage location and supplying access data, for accessing the exchange token at said storage location, to the user. **However Satkunanathan discloses a back up storage of license and enabling the user to easily access the license (see page 8, [0072] lines 5-13).** Therefore it would have been obvious to one of ordinary skill in the art to use Bergler's invention in Bergler for placing a storage area on the software controller for easy access of user to the license.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergler et al (pub No. 2002/0194010 A1) in view of Padole et al (pub. No. 2002/0174356).

As per claim 19, Bergler does not disclose a system as claimed in claim 18 wherein the product data comprises, for each software product, data representing an individual license (LSP) for that software product. **However Padole discloses an individual license for a software product. Therefore it would have been obvious to one of ordinary skill in the art to use Padole's invention in Bergler's invention for having an individual license for a software product to provide a unique license for each product, thereby preventing illegal copy violation (see page 1 [0005] lines 6-7).**

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Corbin (patent No. 5138712), is cited for the teaching of License renewal (Col.9 lines 16-36).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GHAZAL SHEHNI whose telephone number is

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(571)270-7479. The examiner can normally be reached on Monday-Thursday & every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Pan can be reached on 571-272-4172. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. S./

Examiner, Art Unit 4171

/Daniel Pan/

Supervisory Patent Examiner, Art Unit 4171